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No Fee Pur. Gov't Code 6103

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**  
10

11 HILL RHF HOUSING PARTNERS, L.P.;  
12 OLIVE RHF HOUSING PARTNER, L.P.,

13 Petitioners/Plaintiffs,

14 vs.

15 CITY OF LOS ANGELES *et al*,

16 Respondents/Defendants.  
17  
18  
19  
20  
21  
22

CASE NO.: BS170127

**RESPONDENT CITY OF LOS  
ANGELES'S SEPARATE STATEMENT  
RE MOTION TO COMPEL FURTHER  
RESPONSES TO REQUESTS FOR  
ADMISSIONS**

Dept.: 86  
Date: May 25, 2018  
Time: 9:30 a.m.

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1           **SEPARATE STATEMENT RE MOTION TO COMPEL FURTHER RESPONSES TO**  
2                                   **REQUESTS FOR ADMISSIONS.**

3  
4           The following is the Separate Statement Regarding Requests for Admission in Dispute of the  
5 City of Los Angeles (the "City") pursuant to California Rule of Court 3.1345.

6           **Request for Admission No. 57:**

7           **Request**

8           Admit that Angelus Plaza and Angelus Plaza North, which provide low-income housing to  
9 seniors and do not lease space at market value, are not analyzed in the Engineer's Report any  
10 differently from other commercial properties.

11           **Response**

12           The City objects to this request as not reasonably likely to lead to admissible evidence and as  
13 being vague and ambiguous. Notwithstanding and without waiving any objection, denies for lack of  
14 sufficient knowledge or information after a diligent investigation.

15           **Argument**

16           Petitioners ask about a fact that is not in the Record: whether they "provide low-income  
17 housing." Had Petitioners conferred in good faith this issue should have been easily resolved – the  
18 Request either requires extra-record evidence that the City does not yet have, or the Request merely  
19 repeats earlier requests the City denied or admitted. Either the City's objections or its response is  
20 clearly reasonable and nothing further should be compelled.

21           The City's objections are straightforward. Petitioners provide no justification for propounding  
22 this Request, which exceeded their allotted 35. They cite to general principles (discovery is "very  
23 broad") while ignoring that even "very broad" discovery rights prohibit repetitive discovery requests.  
24 As near as the City can tell, Petitioners argue that this Request differs (and so is apparently  
25 "necessary") from other virtually identical requests because it explores whether their assessments are  
26 based on the "unique nature" of their properties beyond "assessable square footage." But that  
27 information is provided by the City's response to Request 51, to which the City denied "that the  
28

1 assessment method is limited to measuring Assessable Square Footage.” Requests 52, 54, 55, and 56  
2 repetitively address this exact issue, with slightly different wording.

3 Thus, it appears that Petitioners found it “necessary” to propound more than 35 requests solely  
4 because they wanted to propound dozens of duplicative and pointless requests. Petitioners exceed 35  
5 requests not because this case is “complex” but because they failed to understand the case and their  
6 own requests, focus on material issues, and put effort into drafting requests that address those issues.

7 Moreover, Petitioners are frivolously wrong to argue that the City’s “focus on the fact that this  
8 is a traditional writ of mandate case has no bearing on what is discoverable. . . .” (Separate Statement,  
9 *passim*.) Regardless of the exact limits on discovery in mandamus, *Fairfield* makes it abundantly clear  
10 that discovery in mandamus is much more limited than in other cases. Petitioners are simply wrong,  
11 and were wrong to ignore this basic issue throughout this process. Moreover, *Fairfield* explicitly holds  
12 that in mandamus discovery is limited to requests crafted to obtain admissible extra-record evidence.  
13 That holding has never been questioned, and seems incontrovertible because the evidence, issues and  
14 positions of the parties are largely (if not entirely) settled by the administrative record, and so  
15 discovery is allowed only for the limited matters not so addressed.  
16

17 Petitioners make no showing that extra-record matters are at issue here, and indeed seem to  
18 argue strenuously that they never sought such information. Thus, Petitioners appear to concede they do  
19 not seek discoverable information at all, let alone that this matter justifies more than 35 requests.  
20 Moreover, even if Petitioners actually believe in good faith they can seek discovery in mandamus  
21 solely to “clarify” issues, Petitioners made no effort to at acknowledge that such discovery must be  
22 limited or to rein in their dozens of requests. One would expect a party acting in good faith to at least  
23 acknowledge that they are testing the limits of discoverable material and adjust the scope of their  
24 requests accordingly.

25 Moreover, Petitioners’ position has changed since the meet and confer process. Then the City  
26 made it clear that it does not rely on any extra-record evidence and would need to investigate and  
27 gather any such evidence. Petitioners confusingly insisted that the City both rely solely on the Record  
28

1 to address Requests for Admission, but at the same time provide “facts” beyond citing to the Record to  
2 supports its responses. The City attempted to split the difference between Petitioners’ contradictory  
3 positions by having Petitioners’ stipulate that extra-record evidence is not at issue, but Petitioners  
4 refused. This left it virtually impossible for the City to know Petitioners wished to proceed.

5 Nevertheless, the City attempted to respond and the City’s response is entirely reasonable.  
6 Petitioners ignore their actual Request and instead focus on how the City could have answered a very  
7 different Request. Petitioners argue that they seek to know whether “unique characteristics” other than  
8 “assessable square footage” is used to determine the assessments against their properties. Petitioners  
9 asked that question multiple times, in virtually identical Requests 51, 52, 54, 54, 55, and 56 (just to  
10 point to those before this Request). If other “unique characteristics” are at issue besides “assessable  
11 square footage,” Request 51 and these others cover it well.

12 But the actual Request addresses whether Petitioners’ properties are addressed differently  
13 because they provide “low income housing.” The City does not know and has no reason to know  
14 whether Petitioners actually provide “low income housing,” and has not finished its investigation. This  
15 is an entirely reasonable response. No further response can be compelled.

16  
17 **Request for Admission No. 58:**

18 **Request**

19 Admit that Angelus Plaza and Angelus Plaza North, which provide low-income housing to  
20 seniors and do not lease space at market value, are not analyzed in the Engineer’s Report any  
21 differently from other residential or mixed-residential properties.

22 **Response**

23 The City objects to this request as not reasonably likely to lead to admissible evidence and as  
24 being vague and ambiguous. Notwithstanding and without waiving any objection, denies for lack of  
25 sufficient knowledge or information after a diligent investigation

26 **Argument**

27 See No. 57.  
28

1  
2 **Request for Admission No. 59:**

3 **Request**

4 Admit that Angelus Plaza and Angelus Plaza North are assessed wholly based on Assessable  
5 Square Footage.

6 **Response**

7 The City objects to this request as not reasonably likely to lead to admissible evidence and as  
8 being vague and ambiguous. Notwithstanding and without waiving any objection, denies for lack of  
9 sufficient knowledge or information after a diligent investigation.

10 **Argument**

11 See No. 57.

12 Here, Request 59 differs from Request 51 only in that Request 57 addresses whether properties  
13 "are" assessed, rather than addressing the Report's assessment methodology as in Request 51.  
14 Presumably, assessments are and will be made pursuant to the descriptions in the Report; however,  
15 Request 51 already (and literally) addresses the Report's methodology. Request 59's only relevance is  
16 to address actual, not intended, assessments, and to seek information outside of the record.

17 Even this limited difference between Requests 51 and 59, however, simply emphasizes how  
18 pointless Request 59 actually is. The DCBID is proper or improper by its intended operations based on  
19 the Record, which are fully addressed by Request 51. Failure to properly make the assessment might  
20 justify a refund action, but the DCBID would still be properly established. The City's objections here  
21 are particularly well-founded.  
22

23 **Request for Admission No. 60:**

24 **Request**

25 Admit that DCBID's services are intended to provide a benefit to assessed parcels in the form  
26 of increased commercial activity and lease rates, among other varying economic benefits.

27 **Response**  
28

1 The City objects to this request as not reasonably likely to lead to admissible evidence and as  
2 being vague and ambiguous. Notwithstanding and without waiving any objection, denies for lack of  
3 sufficient knowledge or information after a diligent investigation.

4 Argument

5 See No. 57.

6 The City denied the virtually identical Request 45, which asked the City to admit “that the  
7 services described by the Engineer’s Report are intended to provide economic benefits to assessed  
8 parcels in the form of increased commercial activity, which includes, but is not limited to, increased  
9 lease rates, an enhanced business climate, improved business offerings, and attracting new residents,  
10 businesses, and District investment.”

11 Request 60 either duplicates Request 45, in which case it is clearly improper, or it must seek  
12 something else. The City in good faith assumed that Petitioners were not simply repeating Requests  
13 over and over, and so presumed this meant to go beyond the record (and so be at least minimally  
14 different from Request 45.) This seemed justified by the language of Request 60 itself (which  
15 addresses the actual intent, not what the Record says about that intent.) Given that, the City would  
16 need to examine the intent of all the various stakeholders and determine what (if any) intent could be  
17 determined from these possibly disparate views.

18 But Petitioners now argue that Request 60 is, indeed, **exactly the same as Request 45.** (See  
19 Petitioners’ Separate Statement). Request 45 already addresses what Petitioners claim they seek, and  
20 so this is irrelevant. Nor is there any reason to ask it. If the Report so states, the Record is before the  
21 Court and equally available to all. In a mandamus action in particular there is no need for such  
22 discovery. The City’s objections, and the response itself, are well founded.

23  
24 **Request for Admission No. 61:**

25 Request

26 Admit that DCBID’s services are intended to provide quality-of-life and economic  
27 enhancement benefits.

28 Response

1 The City objects to this request as not reasonably likely to lead to admissible evidence and as  
2 being vague and ambiguous. Notwithstanding and without waiving any objection, denies for lack of  
3 sufficient knowledge or information after a diligent investigation.

4 Argument

5 See No. 60. Earlier requests (including Request 45) cover whether the Record refers to such  
6 benefits; the City's good faith in presuming this was not entirely repetitive, and so addresses extra-  
7 record evidence the City did not yet possess, was apparently not rewarded here as well.

8  
9 **Request for Admission No. 63:**

10 Request

11 Admit that DCBID's services are intended to benefit all people in the district broadly,  
12 generally, and directly.

13 Response

14 The City objects to this request as not reasonably likely to lead to admissible evidence and as  
15 being vague and ambiguous. Notwithstanding and without waiving any objection, denies for lack of  
16 sufficient knowledge or information after a diligent investigation

17 Argument

18 See No. 60. Again, this goes beyond the intent set forth in the Record to intent, generally. This  
19 seems utterly irrelevant, as the DCBID is constitutional based on how the Record sets forth services  
20 are provided, not how they were "intended" to be provided. The extent to which the Record addresses  
21 this topic is amply addressed in other Requests. If this was not intended to address extra-record  
22 evidence it is duplicative and irrelevant. Either the City's responded properly or its objections are  
23 incontrovertible.

24  
25 **Request for Admission No. 65:**

26 Request

27 Admit that in separating and quantifying special benefits from general benefits in Section E, the  
28 Engineer's Report relies on the California State Legislature's January 1, 2015 amendments to the

1 California Streets and Highways Code, including but not limited to those contained in Sections  
2 36615.5, 36609.5, 36601(h)(2), and 36601(e).

3 Response

4 The City objects to this request as not reasonably likely to lead to admissible evidence and as  
5 being vague and ambiguous. Notwithstanding and without waiving any objection, denies for lack of  
6 sufficient knowledge or information after a diligent investigation.

7 Argument

8 See No. 60.

9 Additionally, again the City's vagueness objection is well-taken here. The Report reflects the  
10 Engineer's determinations, it does not make its own. The City could have taken an overly technical  
11 position and denied this Request as the Report technically "relies" on nothing, but instead attempted to  
12 address this more reasonably. That effort was unrewarded.

13 Petitioners seem to seek (what they actually seek remains a mystery) to have the City admit that  
14 the Code was among the legal authorities cited to in the Report. That is utterly irrelevant; however, if  
15 relevant the Record clearly shows what authorities were cited within it. Moreover, whatever minimal  
16 "clarification" such an admission could provide is completely destroyed when the Request uses the  
17 "including but not limited to" language. Now the Request cannot possibly clarify anything. It merely  
18 states that some things, and maybe some unspecified other things, are included in the Record.

19 We already know that; the Record exists and contains some things, and maybe others. This  
20 Request is bizarrely pointless.

21  
22 **Request for Admission No. 72:**

23 Request

24 Admit that the Management District (Exhibit H) provides that the "Treatment of Residential  
25 Housing" will be as follows: "In accordance with Section 36632(c) of the California Streets and  
26 Highways Code, properties zoned solely for residential or agriculture use are conclusively presumed  
27 not to receive a special benefit from the improvements and service provided through the assessments  
28 of the District and are not subject to any assessment pursuant to Section 36632(c). Therefore,



1 properties zoned solely for residential or agricultural use within the boundaries of the district, if any,  
2 will not be assessed. The District does not contain any parcels that are zoned solely for residential  
3 use.”

4 Response

5 The City objects to this request as not reasonably likely to lead to admissible evidence and as  
6 being vague and ambiguous. Notwithstanding and without waiving any objection, denies for lack of  
7 sufficient knowledge or information after a diligent investigation.

8 Argument

9 See No. 65. If this merely seeks to force the City to admit that certain language appeared  
10 verbatim in the Record, it is irrelevant.

11 Otherwise, the City in good faith believed Petitioners sought to address the underlying truth of  
12 the statements, as otherwise the Request is utterly pointless. Petitioners refused to address this and  
13 other Requests individually throughout this process, and so it was impossible to further develop and  
14 address concerns to this and other specific requests. Moreover, here the City’s vagueness objection is  
15 again well-founded. No reasonable person would expect a party to blithely admit or deny such a  
16 quotation, as it could be misleadingly used to argue that the City had conceded underlying facts.

17 It is particularly egregious for Petitioners to now take the position that this can be answered  
18 solely from the Record when, throughout the meet and confer process, Petitioners insisted that the  
19 Record alone could not justify a response. This position led the City to the only reasonable  
20 interpretation of this and other Requests, that it required the City to address underlying facts not in the  
21 Record.

22 The City’s objections are well-founded and its response was justified.  
23

24 **Request for Admission No. 76:**

25 Request

26 Admit that the Engineer’s Report concludes that there are only 13 parcels outside of DCBID  
27 which receive a general benefit from DCBID’s services.

28 Response

1 The City objects to this request as not reasonably likely to lead to admissible evidence and as  
2 being vague and ambiguous. Notwithstanding and without waiving any objection, denies for lack of  
3 sufficient knowledge or information after a diligent investigation.

4 Argument

5 See No. 72.

6 The City's objections are well-founded here. Either the Report already addresses such  
7 "conclusions" and *Fairfield* prohibits this discovery, or else extra-record evidence is needed to  
8 respond.

9 It may be a reasonable conclusion, and the City agreed to change its response to a denial or  
10 admission if Petitioners would stipulate that they would not introduce extra-record evidence at trial.  
11 Petitioners refused, and accordingly the City must consider whether and to what extent it must further  
12 investigate and analyze this issue. In the end, perhaps nothing but the record will be needed, but the  
13 City's investigation was not complete when it responded and is not yet complete. The City has no  
14 basis on which to change its response.

15  
16 **Request for Admission No. 78:**

17 Request

18 Admit that parcels which are outside of DCBID but are not immediately adjacent to DCBID's  
19 boundaries are not considered to receive a general benefit from DCBID's services.

20 Response

21 The City objects to this request as not reasonably likely to lead to admissible evidence and as  
22 being vague and ambiguous. Notwithstanding and without waiving any objection, denies for lack of  
23 sufficient knowledge or information after a diligent investigation.

24 Argument

25 See No. 76.  
26  
27  
28

1 Request for Admission No. 82:

2 Request

3 Admit that the Engineer's Report's definition of "public at large" excludes people outside the  
4 boundaries of DCBID.

5 Response

6 The City objects to this request as not reasonably likely to lead to admissible evidence and as  
7 being vague and ambiguous. Notwithstanding and without waiving any objection, denies for lack of  
8 sufficient knowledge or information after a diligent investigation.

9 Argument

10 See No. 76.

11  
12 Dated: May 11, 2018

Respectfully submitted,

13  
14 MICHAEL N. FEUER, City Attorney (SBN 111529)  
15 BEVERLY A. COOK, Assistant City Attorney (SBN 68312)  
16 DANIEL M. WHITLEY, Deputy City Attorney (SBN 175146)

17 By

  
18 **DANIEL M. WHITLEY**

*Attorneys for the City of Los Angeles*

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1 **PROOF OF SERVICE**

2 I, Cynthia Marchena, declare as follows: I am employed in the County of Los Angeles,  
3 California. I am over the age of 18 and not a party to the within action. My business address is 200 N.  
4 Main St., Rm. 920 C.H.E., and Los Angeles, California 90012.

5 On May 11, 2018, I served the foregoing document described as:  
6 **RESPONDENT CITY OF LOS ANGELES'S SEPARATE STATEMENT RE MOTION TO**  
7 **COMPEL FURTHER RESPONSES TO REQUESTS FOR ADMISSIONS**, on the interested parties  
in this action by placing a ☒ true copy ☐ original copy thereof enclosed in a sealed envelope  
addressed as follows:

8 Timothy D. Reuben, Esq.  
9 REUBEN RAUCHER & BLUM  
10 12400 Wilshire Blvd., Ste. 800  
Los Angeles, CA 90025

11 Michael G. Colantuono, Esq.  
12 Holly O. Whatley, Esq.  
13 Pamela K. Graham, Esq.  
14 Colantuono, Highsmith & Whatley, PC  
790 East Colorado Blvd., Ste. 850  
Pasadena, CA 91101

15 ☒ **MAIL** - I caused such envelope to be deposited in the United States mail at Los Angeles,  
16 California, with first class postage thereon fully prepaid. I am readily familiar with the business practice  
17 for collection and processing of correspondence for mailing. Under that practice, it is deposited with the  
18 United States Postal Service on that same day, at Los Angeles, California, in the ordinary course of  
business. I caused such envelope to be deposited in the mail at Los Angeles, California, with first class  
postage thereon fully prepaid.

19 ☐ **Federal** - I declare that I am employed in the office of a member of the bar of this court at whose  
20 direction the service was made.

21 ☒ **State** - I declare under penalty of perjury under the laws of the State of California that the  
22 foregoing is true and correct.

23 Executed on May 11, 2018, at Los Angeles, California.

24   
25 Cynthia Marchena